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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/608,876	06/27/2003	Jonathan Dale	073338.0134 (02-53311 FLA	7466
5073	7590	12/08/2010	EXAMINER	
BAKER BOTTS L.L.P. 2001 ROSS AVENUE SUITE 600 DALLAS, TX 75201-2980			JABR, FADEY S	
			ART UNIT	PAPER NUMBER
			3628	
			NOTIFICATION DATE	DELIVERY MODE
			12/08/2010	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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### Office Action Summary

**Application No.**

10/608,876

**Applicant(s)**

DALE, JONATHAN

**Examiner**

FADEY S. JABR

**Art Unit**

3628

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 July 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,4-11, 14-21 and 24-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,4-11, 14-21 and 24-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-06)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(c), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(c) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 27 July 2010 has been entered.

### ***Status of Claims***

Claims 1-31 have been affirmed by the BPAI. Claims 2-3, 12-13 and 22-23 have been cancelled. Claims 1, 11, 21 and 31 have been amended. Claims 1, 4-11, 14-21 and 24-31 remain pending and are again presented for examination.

### ***Response to Arguments***

2. Applicant's arguments filed 28 July 2010 with respect to 35 U.S.C. 101 (claims 11-20) have been fully considered but they are not persuasive. Applicant argues that in view of the Supreme Court's Bilski decision that the claims are now considered statutory. However, examiner respectfully disagrees. Examiner notes that the claims in question are system claims, which must contain structure in order to be considered statutory. Further, the Bilski decision not only discloses that a claim must not be abstract, but must also disclose the machine or transformation must be particular. However, since the argument is for method claims, the applicant's arguments are moot since the above claims are system claims.

3. Applicant's arguments filed 28 July 2010 with respect to 35 U.S.C. 103(a) have been fully considered but they are not persuasive. Examiner points the applicant to the BPAI decision filed 28 May 2010 for a further explanation in regards to the applicant's arguments (**argument C.**).
4. Applicant's arguments with respect to claims **1, 11, 21 and 31 (arguments A.)** have been considered but are moot in view of the new ground(s) of rejection. Applicant argues Rose fails to disclose identifying a template specifying a plurality of unfilled events associated with an unaccomplished task designated by a user, wherein each of the events define a subtask to be completed to accomplish the task. Examiner notes that Rose does disclose a template specifying events that collectively can make up a complete trip (task) wherein each event comprises links to complete a reservation to complete the trip (see Figure 5A). Further, Sobalvarro teaches a template where a client can choose a type of trip (Getaways, Around Town...) (see Figure 2A). Then assuming a client chooses Getaways, another template specifying types of Getaways is presented to the user (Day Trip, Short Weekend....) (see Figure 2B). Next, assuming a client chooses Short Weekend, a client can choose a Departure City along with what type of Short Weekend they want (Romantic, Wacky...) (See Figure 2C). Sobalvarro teaches allowing a client to determine a trip (task) they want to plan then allows them to book events which each encompass further booking events.
5. Applicant's arguments with respect to claims **1, 11, 21 and 31 (arguments D.)** have been considered but are moot in view of the new ground(s) of rejection.
6. Applicant argues (**argument B.**) that the combination of references fails to teach a plurality of consumer descriptors each comprising consumer preferences for use during service

scheduling. Examiner respectfully disagrees. Examiner notes that Rose discloses generic, specific and dynamic descriptors as disclosed in the applicant's specification. For instance, Rose discloses a plurality of consumer descriptors (State and Type of Cuisine and Time each which contain a drop down menu of preferences) (see Figure 6A). Thus, in the broadest reasonable interpretation Rose discloses a plurality of consumer descriptors each comprising consumer preferences (type of cuisine, time, where) for use during service scheduling.

7. Applicant argues (**argument E.**) that the combination of references fails to teach each of the service links point to a particular feature of the identified service and specify a command for accessing the particular feature. However, respectfully disagrees. Examiner notes that Rose discloses a service, Grandview Restaurant, which discloses a plurality of features such as specials, wine list, menu etc. The restaurant also discloses a link for making and cancelling the reservation. Thus, in the broadest reasonable interpretation Rose discloses the above limitation.

### ***Claim Objections***

8. Claims **1, 11, 21** and **31** are objected to because of the following informalities: the claim fails to include a comma or semicolon after the word feature and before the word and, in line 26 of the claims. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 101***

9. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

10. Claims **1** and **4-10** are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Based upon consideration of all of the relevant factors with respect to the claim as a whole, claim(s) **1** and **4-10** held to claim an abstract idea, and is/are therefore rejected as ineligible subject matter under 35 U.S.C. 101. The rationale for this finding is explained below: there is insufficient recitation of a particular machine or transformation.

11. Claims **11** and **14-20** are rejected under 35 U.S.C. 101 because computer programs claimed as computer listings *per se*, i.e., the descriptions or expressions of the programs, are not physical “things.” They are neither computer components nor statutory processes, as they are not “acts” being performed. Such claimed computer programs do not define any structural and functional interrelationships between the computer program and other claimed elements of a computer which permit the computer program's functionality to be realized. In contrast, a claimed computer-readable medium encoded with a computer program is a computer element which defines structural and functional interrelationships between the computer program and the rest of the computer which permit the computer program's functionality to be realized, and is thus statutory. See MPEP § 2106 (a). In the present case, an *interface* and an *agent* are considered to be software and are therefore deemed to be non-statutory.

12. Claims **21** and **24-30** are require a computer readable store medium, which stores a program. The specification does not set forth what constitutes a computer readable medium, and therefore , in view of the ordinary and customary meaning of computer readable media and in accordance with the broadest reasonable interpretation of the claim, said medium could be directed towards a transitory propagating signal *per se* and considered to be non-statutory subject matter. See *In re Nuijten*, 500 F.3d 1346, 1356-57 (Fed. Cir. 2007) and *Interim*

*Examination Instructions for Evaluating Subject Matter Eligibility Under 35 U.S.C. 101, Aug 24, 2009, p. 2.* Claims that recite nothing but the physical characteristics of a form of energy, such as a frequency, voltage, or the strength of a magnetic field, define energy or magnetism, per se, and as such are nonstatutory natural phenomena. O'Reilly, 56 U.S. (15 How.) at 112-14. Moreover, it does not appear that a claim reciting a signal encoded with functional descriptive material falls within any of the categories of patentable subject matter set forth in §101. Please refer to MPEP 2111.01 and the USPTO's "Subject Matter Eligibility of Computer Readable Media" memorandum dated January 26, 2010, [http://www.uspto.gov/patents/law/notices/101\\_crm\\_20100127.pdf](http://www.uspto.gov/patents/law/notices/101_crm_20100127.pdf).

***Claim Rejections - 35 USC § 112***

13. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim element "means for identifying...means for determining...means for accessing..." is a means (or step) plus function limitation that invokes 35 U.S.C. 112, sixth paragraph. However, the written description fails to disclose the corresponding structure, material, or acts for the claimed function. the closest disclosure of structure is a plan processing engine, which is merely software.

Applicant is required to:

(a) Amend the claim so that the claim limitation will no longer be a means (or step) plus function limitation under 35 U.S.C. 112, sixth paragraph; or

(b) Amend the written description of the specification such that it expressly recites what structure, material, or acts perform the claimed function without introducing any new matter (35 U.S.C. 132(a)).

If applicant is of the opinion that the written description of the specification already implicitly or inherently discloses the corresponding structure, material, or acts so that one of ordinary skill in the art would recognize what structure, material, or acts perform the claimed function, applicant is required to clarify the record by either:

(a) Amending the written description of the specification such that it expressly recites the corresponding structure, material, or acts for performing the claimed function and clearly links or associates the structure, material, or acts to the claimed function, without introducing any new matter (35 U.S.C. 132(a)); or

(b) Stating on the record what the corresponding structure, material, or acts, which are implicitly or inherently set forth in the written description of the specification, perform the claimed function. For more information, see 37 CFR 1.75(d) and MPEP §§ 608.01(o) and 2181.

### *Claim Rejections - 35 USC § 103*

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claims **1-31** are rejected under 35 U.S.C. 103(a) as being unpatentable over Rose et al., Pub. No. US2008/0010105 A1 in view of Lewin et al., Pub. No. US2001/0005831 A1 and



Sobalvarro et al., Pub. No. US2006/0287897 A1, hereinafter referred to as Rose, Lewin and Sobalvarro, respectively.

As per Claims 1, 5-6, 9-11, 15-16, 19-21, 25-26 and 29-31, Rose discloses a method and system comprising:

- determining a plurality of consumer descriptors, wherein each consumer descriptor comprises consumer preferences for use during service scheduling (see Figure 6A);
- accessing a remote service directory having service descriptors for each of a plurality of services (0010, 0051-0052, 0055);
- filtering the services from the service directory based on the service descriptors, the event, and the consumer descriptors to determine potential ones of the services for fulfilling the event (see Figures 6A, 7);
- identifying service links for accessing the selected services (0059);
- wherein for each of the potential services, the additional service descriptors comprise a plurality of interface descriptors each identifying a feature of the potential service and a format for interfacing with the feature (see Figure 8); and
- wherein each of the service links points to a particular feature of the identified service and specifies a command for accessing the particular feature (see Figure 8).

Rose fails to *explicitly* disclose identifying a template specifying a plurality of unfilled events associated with an unaccomplished task designated by a user, wherein each of the events define a subtask to be completed to accomplish the task. Examiner notes that Rose does disclose a template specifying events that collectively can make up a complete trip (task) wherein each

event comprises links to complete a reservation to complete the trip (see Figure 5A). Further, Sobalvarro teaches a template where a client can choose a type of trip (Getaways, Around Town...) (see Figure 2A). Then assuming a client chooses Getaways, another template specifying types of Getaways is presented to the user (Day Trip, Short Weekend...) (see Figure 2B). Next, assuming a client chooses Short Weekend, a client can choose a Departure City along with what type of Short Weekend they want (Romantic, Wacky...) (See Figure 2C). Sobalvarro teaches allowing a client to determine a trip (task) they want to plan then allows them to book events which each encompass further booking events. Thus, Rose discloses a system which allows a user to book a variety of bookable events while Sobalvarro teaches a system which allows a user to identify the type of trip they want to book followed by bookable events associated with the type of trip. Therefore, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the method and system of Rose and include identifying events associated with a type of trip as taught by Sobalvarro since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Rose fails to disclose modifying the template to associate the service links with the events; presenting the template for acceptance. Rose does disclose a customer accepting a reservation at an available time-slot (0075). However, Sobalvarro teaches an itinerary for a short weekend with a hypertext link. Sobalvarro also teaches a package for flight, car rental, dinner reservations and show tickets with hypertext links to each of the services for the event, and allowing the user to purchase the itinerary (see Figures 2E-2F). Further Sobalvarro teaches a

number of package offerings with round trip air fare, hotel accommodations, car rental and show tickets (0100, 0107, also see Figure 2D, 3B, 10). Therefore, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the method and system of Rose and include modifying a template to incorporate links to the events and service links as taught by Sobalvarro since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Rose fails to *explicitly* disclose querying each of the potential services for additional service descriptors; filtering the potential services based on the additional service descriptors, the event, and the consumer descriptors to determine selected ones of the services for fulfilling the event. Rose does however disclose a system which allows a user to select a bookable event, which then provides the user with a list of restaurants for example, and finally a providing the user with a restaurant based on the client's preferences (see Figures 7-9A). Further, Lewin teaches providing services to a client over the Internet. Lewin provides a directory of services to a client (0030). Further, Lewin teaches Upon selection of a type of PoS (Products or Services) by the consumer, the system of the present invention presents the consumer with a "search" form which includes (i) the general filter criteria for the search and (ii) the specific filter criteria () that are related to the chosen type of PoS...The specific filter criteria includes entities that represent services and entities that represent features or attributes of the requested service (0017-0020). Further, Lewin teaches as a result of processing by the system the input information submitted by the consumer, the consumer (as a result of the search) is presented with contact information of

potential provider(s) that provide a resource limited product or service. The consumer may select any of the matching PoS and generate a reservation order using the user interface provided by the system. The reservation order is stored in the system database and triggers at least one notification to the corresponding provider in the form of, for example, mail, fax, pager, or cellular phone message. Preferably, the consumer receives a status indication in respect of the reservation order. The status indication may include, for example confirmation or rejection (0021). Thus, Rose discloses filtering the bookable choices provided to the user based on their selections, while Lewin teaches a user being provided with additional criteria to filter the service providers. Therefore, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the method and system of Rose and include filter criteria at each stage of the search as taught by Lewin, because it allows a user to specify their preferences during all stages of a search in order to be presented with the service providers meeting their preferences.

As per Claims 4, 14 and 24, Rose discloses wherein the consumer descriptors include global descriptors applicable across multiple templates and dynamic descriptors specifying constraints for one or more of the events (see Figure 6A).

As per Claims 7, 17 and 27, Rose discloses communicating payment information to at least one of the selected services (see Figure 12).

As per Claims 8, 18 and 28, Rose discloses wherein the template comprises a text based file (see Figure 6A).

### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FADEY S. JABR whose telephone number is (571)272-1516. The examiner can normally be reached on Mon. - Fri. 8:00am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on (571) 272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Examiner  
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